

examination findings. Regarding appellant's right knee, Dr. Whitfield diagnosed right knee arthralgia with chondromalacia patella, pes anserinus bursitis, and patellar tendinitis. He completed duty status reports (Form CA-17) and work restriction notes dated June 11 and August 13, 2020, which indicated that appellant was unable to work.

By decision dated June 8, 2021, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the June 4, 2020 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by the Federal Employees' Compensation Act (FECA).

On June 30, 2021 appellant, through her representative, requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

OWCP subsequently received additional evidence. In a May 20, 2021 report, Dr. Whitfield related appellant's complaints of right knee pain. He reported that she was not working. Dr. Whitfield noted that examination findings of appellant's right knee revealed tenderness to palpation in the anterolateral and anteromedial joint lines. He diagnosed right knee arthralgia with chondromalacia patella, pes anserinus bursitis, patellar tendinitis, hamstring tendinitis, lumbosacral sprain and L4-5 posterior disc bulging.

In a report dated May 31, 2021, Dr. Whitfield indicated that he was responding to OWCP's development letter. He provided his dates of examination and modalities of treatment, and referred to his June 11, 2020 report for examination findings and diagnosis. Dr. Whitfield opined that it was "clear that within reasonable medical probability [appellant] sustained injuries to her right knee at work [June 4, 2020]."

By decision dated August 24, 2021, OWCP's hearing representative modified the June 8, 2021 decision to find that appellant had established right knee medical diagnoses in connection with the accepted June 4, 2020 employment incident. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted June 4, 2020 employment incident.

On August 29, 2022 appellant, through her representative, requested reconsideration. The representative indicated that appellant immediately reported her injury to her supervisor and was provided with an authorization for examination and/or treatment (Form CA-16) to take to the emergency room for treatment. Appellant alleged that Dr. Whitfield, her treating physician, had responded to OWCP's request for additional information and his response clearly met the criteria of causal relationship.

Appellant submitted an August 15, 2022 report of Dr. Whitfield. He noted findings from his prior reports and concluded that "there was unequivocal evidence to demonstrate that [appellant] sustained injuries to her right knee on June 4, 2020 at work." Appellant also resubmitted reports from Dr. Whitfield dated June 11, 2020, and May 20 and 31, 2021.

By decision dated March 3, 2023, OWCP summarily denied appellant's reconsideration request, finding that it was untimely filed and failed to demonstrate clear evidence of error.

Appellant appealed to the Board. By decision dated February 15, 2024,² the Board set aside OWCP's March 3, 2023 decision, and remanded the case to OWCP to make findings of fact and provide a clear statement of reasons explaining the basis for the decision.

By decision dated April 19, 2024, OWCP denied appellant's August 29, 2022 request for reconsideration, finding that it was untimely filed, and failed to demonstrate clear evidence of error. It noted appellant's representative's representations regarding Dr. Whitfield's May 31, 2021 report, but did not mention receipt of the August 15, 2022 report from Dr. Whitfield.

The Board, having duly considered this matter, finds that the case is not in posture for decision.

In the case of *William A. Couch*,³ the Board held that, when adjudicating a claim, OWCP is obligated to consider and address all evidence properly submitted by a claimant and received by OWCP before the final decision is issued.

On prior appeal, by decision dated February 15, 2024, the Board set aside OWCP's March 3, 2023 decision, and remanded the case to OWCP. It was to make findings of fact and provide a clear statement of reasons explaining whether or not the evidence appellant submitted with her untimely request for reconsideration established clear evidence of error.

By decision dated April 19, 2024, OWCP denied appellant's August 29, 2022 request for reconsideration, finding that it was untimely filed, and failed to demonstrate clear evidence of error. It noted appellant's representative's representations regarding Dr. Whitfield's May 31, 2021 report, but did not mention receipt of the August 15, 2022 report from Dr. Whitfield.

As such, OWCP failed to follow its procedures by properly reviewing and discussing all of the evidence of record.⁴ It is crucial that OWCP consider and address all evidence relevant to the subject matter properly submitted prior to the issuance of its final decision, as the Board's decisions are final with regard to the subject matter appealed.⁴

The Board thus finds that this case is not in posture for a decision as OWCP did not consider and address evidence submitted by appellant in support of her untimely request for reconsideration. On remand, OWCP shall review all evidence of record and it shall issue an appropriate decision. Accordingly,

² *G.V.*, Docket No. 23-1005 (issued February 15, 2024).

³ 41 ECAB 548 (1990); *see also Order Remanding Case, P.B.*, Docket No. 24-0368 (issued May 22, 2024); *Order Remanding Case, A.D.*, Docket No. 22-0519 (issued January 11, 2023); *Order Remanding Case, A.B.*, Docket No. 22-0179 (issued June 28, 2022); *Order Remanding Case, S.H.*, Docket No. 19-1582 (issued May 26, 2020); *R.D.*, Docket No. 17-1818 (issued April 3, 2018).

⁴ OWCP's procedures provide that all evidence submitted should be reviewed and discussed in the decision. Evidence received following development that lacks probative value should also be acknowledged. Whenever possible, the evidence should be referenced by author and date. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Denials*, Chapter 2.1401.5b(2) (November 2012).

IT IS HEREBY ORDERED THAT the April 19, 2024 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this order of the Board.

Issued: August 26, 2024
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board